BILL NO. S-80-12-37

SPECIAL ORDINANCE NO. S-11-81

AN ORDINANCE approving a contract for Sewer Improvement Resolution No. 326-80 between the City of Fort Wayne, Indiana, and Bercot, Inc., Contractor for installation of sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That a certain contract dated December 16, 1980, between the City of Fort Wayne, Indiana, by and through its Mayor and the Board of Public Works, and Bercot, Inc., Contractor for:

rehabilitation of existing sanitary sewers in the area bounded on the North by Cook Road, West Hillegas Road, South Lowther-Neuhaus Ditch and East Coldwater Road,

under Board of Public Works Sewer Improvement Resolution No. 326-80, at a total cost of $294,980.00, all as more particularly set forth in said Contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein and made a part hereof, be and the same is in all things hereby ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

COUNCILMAN

APPROVED AS TO FORM AND
LEGALITY DECEMBER 18, 1980.

J. E. Hoffman

JOHN E. HOFFMAN, City Attorney

Read the first time in full and on motion by Burns, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ____, the ____ day of ____, 19____, at ____ o'clock ____ M.,E.S.T.

DATE: 12-23-80

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Burns, seconded by GiaQuinta, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BURNS	X				
EISBART	X				
GiaQUINTA	X				
NUCKOLS				X	
SCHMIDT, D.	X				
SCHMIDT, V.	X				
SCHOMBURG	X				
STIER	X				
TALARICO	X				

DATE: 1-13-81

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. S-11-81

on the 13th day of January, 19 81

ATTEST: Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

(SEAL)

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of January, 19 81, at the hour of 11:00 o'clock A M.,E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 15th day of Jan. 19 81, at the hour of 11 o'clock A M.,E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-80-12-37

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving a contract for Sewer Improvement Resolution No. 326-80 between the City of Fort Wayne, Indiana, and Bercot, Inc., Contractor for installation of sanitary sewer

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS, CHAIRMAN

VIVIAN G. SCHMIDT, VICE CHAIRMAN

BEN A. EISBART

SAMUEL J. TALARICO

ROY J. SCHOMBURG

CONCURRED IN

DATE 11/3/81 CHARLES W. WESTERMAN, CITY CLERK

CONTRACT NO. 326-80

THIS CONTRACT made and entered into in triplicate this 16th day of December, 1980, by and between BERCOT, INC., herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor, and the Board of Public Works herein called OWNER,

WITNESSETH that the Contractor and the Owner for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the construction of the following:

SUBSYSTEM AS: The boundaries of Subsystem AS are Cook Road on the North, Hillegas Road on the West, Lowther-Neuhaus Ditch on the South and Coldwater Road on the East.

all according to Fort Wayne Pollution Control Engineering Department Drawing No. SY-11051, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the unit price sum of $294,980.00. In event the amount of work is increased or decreased by Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

10" Diameter Sewer Pipe Cleaning	Three dollars and 93/100	3.93
12" Diameter Sewer Pipe Cleaning	Three dollars and 93/100	3.93
15" Diameter Sewer Pipe Cleaning	Three dollars and 93/100	3.93
18" Diameter Sewer Pipe Cleaning	Three dollars and 93/100	3.93
10" Diameter Sewer Pipe Sealing	Three dollars and 93/100	3.93
12" Diameter Sewer Pipe Sealing	Three dollars and 93/100	3.93
15" Diameter Sewer Pipe Sealing	Three dollars and 93/100	3.93
18" Diameter Sewer Pipe Sealing	Three dollars and 93/100	3.93
Manhole Cover	One thousand one hundred eighty-eight dollars and no/100	1,188.00
Manhole Sealing	Forty-two dollars and no/100	42.00
Point Repair	Three thousand eight hundred sixty-two dollars and no/100	3,862.00
8" Diameter Pipe Replacement	One hundred twenty-two dollars and no/100	122.00
10" Diameter Pipe Replacement	One hundred forty dollars and no/100	140.00
12" Diameter Pipe Replacement	One hundred forty-six dollars and no/100	146.00

ARTICLE 3. PROGRESS PAYMENTS

Payments are to be made to the Contractor in accordance with and subject to the provisions embodied in the documents made a part of this Contract.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the Owner to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that Contractor shall first furnish Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Section 14 of the Compensation Act (I.C. 22-3-2-1).

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978, a copy of which Section is attached and incorporated herein and made a part hereof. (NE/1 - NE/3)

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay which ever is the highest of Federal, State, and Local wage rates on the

work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Chapter 319 of the Acts of the General Assembly of the State of Indiana, of 1935, attached hereto and made a part hereof. (WR/1 through WR/34).

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of this contract as if hereto attached or herein repeated:

A. Advertisement for Bids, for Contract No. 326-80
B. Instructions to Bidders for Contract No. 326-80
C. Contractor's Proposal Dated October 21, 1980
D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No. SY-11051
E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers and addenda thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.
F. Federal Contract Provisions.
G. Workmen's Compensation Act (I.C. 22-3-2-1).
H. Non Discrimination of labor General Ordinance No. G-34-78 (as amended).
I. Prevailing wage scale.
J. Performance Bond.
K. Labor and Material Payment Bond.
L. Comprehensive Liability Insurance Coverage.
M. Application for Cut Permit.
N. Escrow Agreement.
O. Notice of Award.
P. Notice to Proceed.
Q. Change Order.
R. Notice of Final Acceptance.
S. Addendum No. 1, 2 and 3.

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall warrant all materials, labor and equipment furnished and work performed for a period of one (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insuror acceptable to owner showing personal injury and property damage coverages in an amount and of a type acceptable to owner. Insurance in force issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.2.4.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract and the work to be performed and materials to be furnished shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified within contract in 720 consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Environmental Protection Agency and Common Council of the City of Fort Wayne, Indiana, and should said Environmental Protection Agency or Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BY: _____, President

BY: _____, Secretary

CITY OF FORT WAYNE, INDIANA

BY: _____
Win Moses, Jr., Mayor

ATTEST:

_____
Sandra E. Kennedy, Clerk

APPROVED AS TO FORM AND LEGALITY:

_____

BOARD OF PUBLIC WORKS

_____
Mark L. Akers, Chairman

_____
Roberta Anderson Staten, Member

_____
Herbert R. Gamache, Member

Approved by the Common Council of the City of Fort Wayne on _____ day of _____, 19____.

Contract No. 326-80

SPECIMEN FORM OF PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that

BERCOT, INC.
(Name of Contractor)

6015 Huguenard Road, Fort Wayne, Indiana 46818
(Address of Contractor)

a Corporation hereinafter called
(Corporation, Partnership, or Individual)

Principal, and THE WESTERN CASUALTY AND SURETY COMPANY
(Name of Surety)

Fort Scott, Kansas 66701
(Address of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the penal sum of Two hundred ninety-four thousand Nine hundred eighty dollars ($ 294,980.00) (value of work) for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by those present.

The condition of the foregoing obligation is such that:

WHEREAS, the Principal entered into certain contract with the City, dated the 16th day of December, 1980, for construction of: SPY RUN STUDY AREA SEWAGE WORKS PROJECT C-180599-07 REHABILITAION OF SEWERS S.S.E.S. SUBSYSTEM AS RESOLUTION 326-80

all according to Fort Wayne Water Pollution Control Engineering Department Drawing No. _____ through and special provisions and according to the City of Fort Wayne's Specifications and Standard Drawings and Addendums, and contained herein.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alternation, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompaning the same, shall in any way affect its obligation on this bond, and it does hereby

waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the City and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 1 (number)

counterparts, each one of which shall be deemed an original, this 16th

day of December, 19 80.

ATTEST:

(Principal) Secretary

[SEAL]

BERCOT, INC.
(Principal)

BY: [SIG]

(Witness as to Principal)

(Address)

(Address)

(Address)

THE WESTERN CASUALTY AND SURETY COMPANY
Surety

ATTEST:

(Surety) Secretary

[SEAL]

Witness as to Surety

By
Attorney-in-Fact

H. Stanley Huff, Jr.

1537 Tartan Lane
(Address)

4233 East State Boulevard
(Address)

New Haven, Indiana 46774

Fort Wayne, Indiana 46815

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

Contract No.

POWER OF ATTORNEY

The Western Casualty and Surety Company

HOME OFFICE—FORT SCOTT, KANSAS

KNOW ALL MEN BY THESE PRESENTS: That THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas, a corporation of the State of Kansas, having its principal office in the city of Fort Scott, Kansas, pursuant to the following Bylaw, which was adopted by the Stockholders of the said Company on December 2, 1953, to-wit:

"Section 27. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT. The president, any vice president or the secretary shall have power and authority to appoint resident vice presidents, resident assistant secretaries and attorneys-in-fact, and to give such appointees full power and authority to make, execute and deliver in the name and on behalf of the corporation, bonds, recognizances, contracts of indemnity and other undertakings and writings of obligatory nature, and to affix thereto the corporate seal of the corporation. The president, any vice president or the secretary shall also have power at any time to remove and revoke the authority of any such appointee."
does hereby nominate, constitute and appoint

H. Stanley Huff, Jr., or Donald F. Campbell
of Fort Wayne, Indiana

its true and lawful agent(s) and Attorney(s)-in-Fact, to make, execute, seal and deliver for and on its behalf, as Surety, and as its act and deed:

Any and all bonds and undertakings.

Provided, No authority is extended for the execution of Open Penalty Bonds.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its offices in Fort Scott, State of Kansas, in their own proper persons.

The following Resolution was adopted at the Quarterly Meeting of the Board of Directors of The Western Casualty and Surety Company, held on the 10th day of November, 1970:

"RESOLVED, That the signatures of officers of the Company and the seal of the Company may be affixed by facsimile to any Power of Attorney executed in accordance with Section 27 of the Company Bylaws; and that any such Power of Attorney bearing such facsimile signatures, including the facsimile signature of a certifying Assistant Secretary, and facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached."

All authority hereby conferred shall remain in full force and effect until terminated by the Company.

IN WITNESS WHEREOF, THE WESTERN CASUALTY AND SURETY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereunto affixed this 17th day of September, 19 75

THE WESTERN CASUALTY AND SURETY COMPANY

By V. J. O'Gorek
Vice President

SEAL

STATE OF KANSAS
COUNTY OF BOURBON ss

On this 17th day of September, A. D., 19 75, before the subscriber, a Notary Public in the State of Kansas in and for the County of Bourbon, duly commissioned and qualified, came V. J. O'Gorek, Vice President of THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company, and that Bylaw, Section 27, adopted by the Stockholders of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Fort Scott, the day and year first above written.

My appointment expires September 5, 1980

D. R. Shepard
Notary Public.

NOTARY PUBLIC

I, F. C. McCurley, Assistant Secretary of THE WESTERN CASUALTY AND SURETY COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a power of attorney executed by said THE WESTERN CASUALTY AND SURETY COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have signed this certificate at Fort Scott, Kansas, this 16th day of December, 19 80.

F. C. McCurley
Assistant Secretary.

SEAL

FORM FS 5890-R3

Admn. Appr. _____

DIGEST SHEET

S-80-12-37

TITLE OF ORDINANCE Spy Run Area Sanitary Improvement Sewage Works Grant No. C-180599-07; Sewer Resolution No. 326-80

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE A contract with Bercot, Inc. to rehabilitate existing sanitary sewers in the area bounded on the North by Cook Rd., West Hillegas Rd., South Lowther-Neuhaus Ditch and East Coldwater Rd. all in accordance with plans and specifications of the W.P.C. Utility.

EFFECT OF PASSAGE Improvement to the water quality in the Spy Run area with the construction of sanitary sewers.

EFFECT OF NON-PASSAGE The loss of State and Federal Funds to improve Fort Wayne environs.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) This project will cost $294,980.00 which will be paid by USEPA (75%), State (10%) and City Utilities (15%).

ASSIGNED TO COMMITTEE (PRESIDENT) City Utilities